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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/676,401

10/01/2003

Martin C. Zieger

6741P001

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02/17/2009

SAP/BSTZ

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EXAMINER

SHEIKH, ASFAND M

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

02/17/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	Application No. 10/676,401	Applicant(s) ZIEGER, MARTIN C.	
	Examiner Asfand M. Sheikh	Art Unit 3627	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/F. Ryan Zeender/  
Supervisory Patent Examiner, Art Unit 3627

Continuation of 11. does NOT place the application in condition for allowance because: The applicant is arguing how the cited references of Benda in view of Cappellini and Itschner fail to teach the claimed invention. More specifically the applicant argues the cited references fail to disclose "evaluating a shipping rule including a constraint for the shipment during the simulation." The examiner disagrees. The examiner notes the combination of Benda in view of Cappellini and Itschner does indeed disclose "evaluating a shipping rule including a constraint for the shipment during the simulation." The examiner sought to use Cappellini to disclose evaluating a shipping rule for the shipment which is permitted to be in the form of complex logical statements (see at least, [0170] and [0188]). The examiner interprets the following from Cappellini "a Rule and Optimization Engine... which uses data to produce possible time sequencing of loads..." to be evaluating a shipping rule for a shipment. Further Cappellini discloses the use of a space management system that can calculate optimal loading procedures including maximum space and minimum loading and unloading time with the use of defined constraints (see at least, [0189]) which can be interpreted to be a constraints for loading of a shipment further Cappellini discloses the use of complex loading rules for the stacking of boxes (see at least, [0186]). Further Cappellini discloses the use of simulating the possible positions of a transport (see at least, [0181]). Therefore the examiner notes that Cappellini as interpreted does indeed disclose the evaluating a shipping rule with the use of constraints for a given shipment during a simulation. From here the examiner further sought to combine Itschner to disclose "detecting a skipping of range of the constraint and adjusting the simulating in response to the skipping." The examiner interprets that the ignoring of a given range of pressure temperatures during a simulation to be a constraint (e.g. range) that is skipped (e.g. ignored) during a simulation and further the reduction of the negligible significance of these ignored ranges during the Koch state equation calculation is the actual adjustment of the equation based on the skipped constraint (e.g. ignored range). The examiner notes this is an analogous element to the applicant's claimed invention of a skipping range and adjustment during a simulation and further that one of ordinary skill in the art would have had the knowledge to combine the elements of Itschner to Benda in view of Cappellini to product a predictable result. Therefore the examiner notes these arguments are not persuasive. Further the examiner notes that claims 12-33 should be listed as (Withdrawn) to avoid non-compliance issues.